IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1672 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1667 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1668 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1673 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1675 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1679 OF 2005
WITH
CRIMINAL WRIT PETITION NO.1680 OF 2005

Vikrant Shah ..Petitioner

Vs.

Milind Mohan Vadangekar
and others ..Respondents

...

Mr. S.V.Sadavarte, Advocate for Petitioner
Mr. Y.S.Shinde A.P.P. for the State in
Cri.W.P.Nos. 1667, 168, 1672 of 2005.
Mr.Rajesh More A.P.P. for the State in
Cri.W.P.Nos. 1673, 1675, 1679 and 1680 of 2005.

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 18,2005

P.C.

1. Heard the learned advocate for the petitioner

and the learned A.P.P. for the State in all the matters.

2. The petitioner is seeking quashing of process issued by the learned J.M.F.C.No.4 Pune,in S.C.C.Nos.4004 of 2004, 3852 of 2004, 3853 of 2004, 4002 of 2004, 3855 of 2004, 4003 of 2004 and 3854 of 2004. In the said cases, the process is issued under Section 138 r.w. 141 of Negotiable Instruments Act. The petitioner has preferred applications before the learned Magistrate for recalling of process. The said applications came to be rejected in view of the Decision in the case of **Adalat Prasad Vs. Rooplal Jindal and others [2004(4) Mh.L.J. 274]**. In view of the decision of the Supreme Court in the case of Adalat Prasad, it is clear that the Magistrate has no power to recall the process. Hence, no fault can be found with the order of the learned Magistrate rejecting the application for recall of process.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of

2005, I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from today. In view of the statement, the trial Court shall not proceed with the trial for a period of four weeks.

5. It is made clear that revision shall be preferred in respect of the order of the Magistrate issuing process and not in respect of the order of the learned Magistrate rejecting the application for recall of process.

6. On the necessary revision being preferred by

the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Writ Petitions are disposed of.

[V.K.TAHILRAMANI,J.]